

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GREGORY C. BONTEMPS,

Petitioner,

v.

JOHN MERCHANT,¹

Respondent.

No. 2:22-cv-1741 TLN KJN P

ORDER

Petitioner, a state prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On November 29, 2022, it was recommended that this action be dismissed based on petitioner's failure to pay the filing fee or file a request to proceed in forma pauperis. On November 29, 2022, petitioner paid the filing fee. On December 15, 2022, petitioner filed objections. Good cause appearing, the findings and recommendations are vacated.

Because petitioner may be entitled to relief if the claimed violation of constitutional rights is proved, respondent will be directed to file a response to petitioner's habeas petition.

In accordance with the above, IT IS HEREBY ORDERED that:

1. The November 29, 2022 findings and recommendations (ECF No. 5) are vacated.

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¹ John Merchant, current acting warden of the California Institution for Men, is substituted as respondent. Fed. R. Civ. P. 25(d); see Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994).


2. Respondent is directed to file a response to petitioner's habeas petition within sixty days from the date of this order. See Rule 4, 28 U.S.C. foll. § 2254. An answer shall be accompanied by all transcripts and other documents relevant to the issues presented in the petition. See Rule 5, 28 U.S.C. foll. § 2254.

3. If the response to the habeas petition is an answer, petitioner's reply, if any, shall be filed and served within thirty days after service of the answer.

4. If the response to the habeas petition is a motion, petitioner's opposition or statement of non-opposition to the motion shall be filed and served within thirty days after service of the motion, and respondent's reply, if any, shall be filed and served within fourteen days thereafter.

5. The Clerk of the Court shall serve a copy of this order, the form Consent to Proceed Before a United States Magistrate Judge, and a copy of the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on Tami Krenzin, Supervising Deputy Attorney General.

Dated: December 22, 2022


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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